

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

DELBERT JENKINS,

Plaintiff,

vs.

No. CIV 11-0477 JB/LFG

STATE OF NEW MEXICO,  
DEPARTMENT OF CORRECTIONS,  
CHARLENE KNIPFING, MICHAEL  
ESTRADA, and BARBARA ROMERO,

Defendants.

**ORDER OF DISMISSAL WITHOUT PREJUDICE**

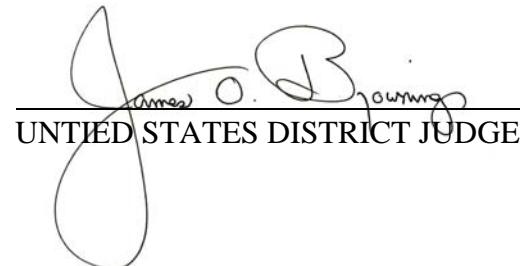
**THIS MATTER** comes before the Court on the Honorable Lorenzo F. Garcia, United States Magistrate Judge's Order to Show Cause, filed October 4, 2011 (Doc. 4) ("Order to Show Cause"). Judge Garcia directed Plaintiff Delbert Jenkins to demonstrate why the Court should not dismiss this case for failure both to serve the Defendants within the time provided by law and to prosecute. See Order to Show Cause at 1.

Judge Garcia instructed Jenkins to respond to the show-cause order not later than October 24, 2011. See Order to Show Cause at 1. In its Order to Show Cause, Judge Garcia warned Jenkins that a "[f]ailure to respond [would] result in a dismissal of this lawsuit." See Order to Show Cause at 1.

Accordingly, having considered the submissions of record, the relevant law, and otherwise being fully advised in the premises, the Court concludes that dismissal without prejudice is appropriate under the circumstances presented. See, e.g., Davis v. Miller, 571 F.3d 1058, 1061 (10th Cir. 2009)(holding that, pursuant to rule 41(b) of the Federal Rules of Civil Procedure, a district

court may dismiss an action sua sponte if plaintiff fails to prosecute or to comply with procedural rules).

**IT IS ORDERED** that this action is dismissed without prejudice.



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UNITED STATES DISTRICT JUDGE

*Parties and Counsel:*

Delbert Jenkins  
Rio Rancho, New Mexico

*Plaintiff Pro Se*